

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 9

September 19, 2014

**SUBJECT:      USE OF PERSONAL IMAGING EQUIPMENT AT CRIME SCENES -  
                  RENAMED AND REVISED**

**PURPOSE:**     Recording devices such as, but not limited to, audio/video recorders, cellular telephones with imaging and video/audio capabilities, and digital cameras are valuable tools for law enforcement for gathering and capturing evidence. Therefore, recordings from these devices relating to criminal investigations must be properly retained. This Order revises Department Manual Section 3/566.10, *Use of Personal Imaging Equipment at Crime Scenes*, to include procedures for the retention of recorded media when using personal recording devices. Sworn Department employees are reminded that California Penal Code (PC) Section 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential; however, PC Section 633 exempts law enforcement from this prohibition during the course of a criminal investigation.

The use of personal recording devices during criminal investigations is not a substitute for Department-issued body cameras, Department digital cameras, the Digital In-Car Video System, or instances requiring the response of the Photographic Unit, Scientific Investigation Division. Rather, personal recording devices should only be used in limited circumstances wherein evidence could be lost or destroyed, video/audio statements/actions of suspect(s) need to be quickly captured, or as an investigative tool when Department resources are not immediately available such as, but not limited to:

- \* Taking photographs of visible fingerprints/blood prior to impending rain at an outdoor crime scene;
- \* Video-recording an unruly threatening crowd; or,
- \* Recording spontaneous statements between detained suspects sitting in a police vehicle.

Officers must exercise discretion to ensure that personal recording devices are used judiciously and must be aware of the legal ramifications regarding discovery, such as, but not limited to, surrendering the personal recording device and allowing the viewing of all media, including personal photos or videos, contained in the personal recording device.

September 19, 2014

**PROCEDURE: USE OF PERSONAL IMAGING EQUIPMENT AT CRIME**

**SCENES - RENAMED AND REVISED.** Department Manual Section 3/566.10, *Use of Personal Imaging Equipment at Crime Scenes*, is renamed ***Use of Personal Recording Devices During Criminal Investigations***. Attached is the revised Section with revisions indicated in italics.

**AMENDMENTS:** This Order amends Section 3/566.10 of the Department Manual.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Internal Audits and Inspections Division, will review this directive and determine whether an audit or inspection will be conducted in accordance with Department Manual Section 0/080.30.

A handwritten signature in blue ink, appearing to read 'C. Beck' with a stylized flourish at the end.

CHARLIE BECK  
Chief of Police

Attachment

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**566.10 USE OF PERSONAL RECORDING DEVICES DURING CRIMINAL INVESTIGATIONS.**

*When conducting criminal investigations, sworn Department employees may use personal recording devices (e.g., cellular telephone, digital camera with video capability ) to document an incident. However, the use of personal recording devices during criminal investigations is not a substitute for Department-issued body cameras, Department digital cameras, the Digital In-Car Video System, or instances requiring the response of the Photographic Unit, Scientific Investigation Division (SID). Rather, personal recording devices should only be used in limited circumstances wherein evidence could be lost or destroyed, video/audio statements/actions of suspect(s) need to be quickly captured, or as an investigative tool when Department resources are not immediately available such as, but not limited to:*

- Taking photos of visible fingerprints/blood prior to impending rain at an outdoor crime scene;*
- Video-recording an unruly threatening crowd; or,*
- Recording spontaneous statements between detained suspects sitting in a police vehicle.*

*Officers must exercise discretion to ensure that personal recording devices are used judiciously and must be aware of the legal ramifications regarding discovery.*

*All recordings and images captured during the course and scope of official duties are confidential, and must not be used except as required in the performance of official duties per Department Manual Section 3/405. Additionally, personal recording devices must not be used to capture photographs and/or video of persons in police custody, victims, witnesses, evidence, dead bodies, traffic collisions, Department employees, crime scenes, or evidence for monetary gain or private use.*

***Employee's Responsibilities.*** *Employees who choose to use their personal recording device during a criminal investigation must:*

- Have the means and ability to transfer and back the recordings/images using a USB adaptor or connector cable;*

***Note:*** *The transferring of recordings must not be done via e-mail. E-mail does not maintain or provide a proper chain of custody.*

- Not record non-duty related contacts (e.g., casual conversation with City employees). Recording of non-duty related contacts without consent is illegal and may expose an officer to discipline, termination and/or criminal sanctions;*
- When using a digital video recorder, ensure the recorder utilizes one of the following formats;*

*H.264 (.AAC, .3GP, .MP4, .M4V)*

*H.264 Blu-ray (.M4V)*

*MPEG-2 (.MPA, .M2V, .MPG)*

*MPEG-2 DVD (.M2V)*

*MPEG-2 Blu-ray (.M2V, with corresponding .WAV file)*

*MPEG-4 (.MP4)*

*P2 (.MXF)*



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*QuickTime movie (.MOV)*  
*Windows Media (.WMV)*  
*Video for Windows (.AVI)*

**Note:** *If the digital video recorder is unable to record in one of the above formats, the employee must provide SID with information on the recording device and/or necessary software to view/play the media file.*

- *If possible, use a blank cassette tape when intending to use a tape recorder as the entire cassette tape must be booked;*

**Note:** *Employees are encouraged to transition from using tape recorders to digital recorders, as the Electronics Unit, SID, will no longer provide cassette tapes, and the duplication of cassette tape services will be phased out. Employees who choose to continue using tape recorders must supply their own cassette tapes. All duplications made by the Electronics Unit will be in digital format and the original cassette tapes will not be returned to the requesting employee.*

- *Not delete any imagery or video captured during the incident, regardless of its quality until it is transferred to a compact disc (CD) or digital versatile disc (DVD), in order to maintain a chronological record of the media captured during the incident. This is necessary for court purposes to prevent the allegation of deleting exculpatory evidence;*
- *When recording audio, either during or following the contact, verbally identify themselves, the date and time, and the name of the person or persons being recorded; and,*
- *Download the recording to a CD or DVD, available at the Area/division records, using the following procedures:*

**Note:** *These procedures do not apply to cassette tape recordings.*

- ◆ *Indicate at the beginning of the appropriate report (e.g. Investigative Report, Form 03.01.00; Arrest Report, Form 05.02.00; Property Report, Form 10.01.00; Release from Custody Report Continuation, Form 05.02.08; or City Attorney Disclosure Statement, Form 05.02.09) and under the required heading in the narrative that a recording was made, including the name and serial number of the officer that made the recording and the name and serial number of the supervisor notified of the recording. Additionally, indicate that the recording was delivered to the concerned detective table, or is being held in the Area/divisional evidence locker;*
- ◆ *Ensure that all recorded media captured during the incident are transferred to the CD or DVD before deleting them from the device;*
- ◆ *Delete all recordings immediately after transferring them to the CD or DVD; and,*
- ◆ *Place the CD/DVD/cassette tape in an envelope, indicate the Division of Records (DR) number and the concerned detective table handling the investigation on the outside of the envelope, and store it in the Area/divisional evidence locker for the concerned investigating table (e.g., robbery, burglary/theft, or major assault crime); or,*

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- ◆ *For adult misdemeanor arrests, attach a copy of the recorded media with the copy of the Arrest Report or Release from Custody Report Continuation that is forwarded to court, and provide an additional copy of the recorded media to the Area/divisional Recording Media Coordinator for storage.*

***Investigating Officer's Responsibilities.*** *Investigating officers who receive or become aware of a recorded media associated with a **criminal investigation**, which has been booked in the Area/divisional evidence locker must:*

- *Retrieve the CD/DVD/cassette tape containing the recorded media from the Area/division evidence locker;*
- *Make a copy or copies of the recorded media via the Area/division media duplication station;*
- *Place the copy of the recorded media inside an envelope containing the six-digit SID media number provided by the Electronics Unit, SID, and complete the "B" slip of the Sound Recording Media Issue/Receipt, Form 12.48.00;*
- *Deliver the copy of the recorded media to the Area/division Recording Media Coordinator for storage; and,*
- *Provide an additional copy of the recorded media to the City Attorney or District Attorney during case filing.*

***Supervisor's Responsibilities.*** *Supervisors must:*

- *Ensure that Area Department digital cameras are deployed and utilized when needed to minimize the need for employees' use of personal recording devices; and,*
- *When notified by an employee that he/she used a personal recording device to document evidence, make an entry on their Sergeant's Daily Report, Form 15.48.00, indicating the reason.*

***Commanding Officer's Responsibilities.*** *Commanding officers must ensure that employees within their command comply with the procedures within this section.*

***Area Recording Media Coordinator's Responsibilities.*** *The Area Recording Media Coordinator or his/her designee must:*

- *Document the CD/DVD/cassette tape information on a Recording Media Inventory, Form 12.40.00;*
- *Store the CD/DVD/cassette tape in a designated locked cabinet, only until it is transferred to the Electronic Unit's media vault or Photographic Unit, SID;*
- *Book the CD/DVD/cassette tape containing audio/video files into the media vault of the Electronics Unit, SID, at Piper Tech – Space 212, as soon as practicable; and/or,*
- *Book the CD/DVD containing photographic images into the Photographic Unit, SID, at Piper Tech – Space 212, as soon as practicable.*

***Electronics Unit, Scientific Investigation Division's Responsibility.*** *The Electronics Unit, SID, is responsible for the storage of the recorded media, per Department Manual Sections 3/569.40 and 4/212.21.*